

MINUTES  
WATER QUALITY ASSURANCE REVOLVING FUND ADVISORY BOARD  
Arizona Department of Environmental Quality Conf. Room 250, 1110 W. Washington Street,  
Phoenix, Arizona  
July 18, 2003

**BOARD MEMBERS IN ATTENDANCE:**

Richard Bark for David Kimball  
Kelly Barr  
Teri Davis for Frank Corkhill  
Karen Gaylord  
Tamara Huddleston  
Will Humble  
Rick Lavis  
Karen Masbruch

Phil McNeely  
Darcy Renfro for Lee Stein  
Chuck Shipley  
Donn Stoltzfus for Karen O'Regan  
Tom Suriano  
Jim Viereg  
Kerri Ann Wade

**BOARD MEMBERS ABSENT:**

Lori Faeth  
Janet Marcus

The meeting was called to order at 9:10 a.m.

**Action Items:**

1. ADEQ will prepare a report regarding aid to municipalities, applications denied and how much funding has been provided by EPA after applications have been denied by ADEQ.
2. The Legislative Committee will schedule a meeting in August to continue discussions on possible changes to the QBS statute language.
3. ADWR will follow up on the policy issue of how to deal with water rights holders in the costs of abandonment of wells or installation of new wells.
4. ADWR will provide an accounting in September of the ADWR budget, what work has been accomplished with the \$800K/year that has been provided by ADEQ, and the status of the \$1.2M in carryover.

**I. Welcome/Opening Remarks/Administrative Issues** - Chairman Lavis announced that this is the 61<sup>st</sup> meeting of the WQARF Advisory Board.

- A. Meeting Schedule** - Chairman Lavis reminded the Board that there will be no meetings in August or November and that the December meeting will take place on the second Friday of the month. All other meetings will take place on the last Friday of the month. The October meeting will be held in Tucson.
- B. Legislative Committee/QBS** - Chairman Lavis announced that draft language on the QBS issue will be available on August 1. The Legislative Committee will be scheduling a meeting in the near future to discuss the QBS issue.

**C. Other** - Chairman Lavis presented a star award to Kelly Barr for all of her work on HB 2264 and for all of her work heading the Legislative Committee. Chairman Lavis presented a star award to Barbra Meaney for all of her assistance in gaining industry support and working to keep WQARF funding intact.

**II. Approval of May 30, 2003 Meeting Minutes** - Mr. Shipley made a motion to approve the May 30, 2003 meeting minutes; Ms. Barr seconded the motion. The minutes were approved.

**III. Presentation of FY04 WQARF Program Budget** - Mr. Shipley referred to the Budget Committee Report in the agenda packet. Mr. Shipley informed the Board that the FY04 budget is approximately \$19.8 million; \$8.7 million in carry forward, which consists of funds not expended and settlement money. The biggest carry over is from Vulture Mill and it will be spent this fiscal year. Corporate income tax, air quality fund, and fees make up the remaining revenue. Projected expenditures for FY04 include \$8.3 million in core costs and \$11.5 million in site costs, which will leave approximately \$600,000 carryover at the end of FY04. Core costs have been reduced from \$9.4 to \$7.6 million due to vacancy savings; there are currently 62 positions funded by WQARF. There is a need for renewed funding in FY05 because extensive cleanup activity will be needed after all of the FY04 work.

ADWR has provided a new reporting format; the Budget Committee will have a recommendation at the September Board meeting. Mr. Shipley made a recommendation that the Board adopt the budget for FY04; Ms. Huddleston seconded the motion.

Ms. Barr asked about the impact of the elimination of transfer of \$250K to municipalities. Mr. Shipley responded that the Budget Committee does not think ADEQ spends a lot of this money anyway and that the money is used for things that might not actually be emergencies. Mr. McNeely added that ADEQ has been denying the applications and that EPA has been reimbursing the municipalities. Ms. Gaylord stated that the affected cities should have been included in the discussions regarding the decision to remove this funding so they could have an opportunity to review and discuss issues with ADEQ. Mr. Shipley stated that Budget Committee meetings are open to public and that the cities did not attend meetings. Ms. Gaylord stated that ADEQ had committed to working with cities' emergency response representatives; that outreach has not occurred. Mr. McNeely stated that ADEQ has responded to each application and identified deficiencies; ADEQ has not had "policy" discussions. Chairman Lavis asked ADEQ to prepare a report of denied applications and EPA payments. Chairman Lavis called for a vote on the motion; the motion was approved.

Chairman Lavis provided the Board a copy of the footnote regarding the budget. The Budget Committee is going to recommend that ADEQ take another approach to long range planning, projecting out three to five years. Chairman Lavis thanked the Governor,

ADEQ Director Owens, Deputy Director Cunningham, Lori Faeth, Representative Johnson, Senator Allen, and everyone else who assisted in FY04 budget efforts.

#### **IV. Year End Reports**

- A. ADEQ** - Mr. McNeely presented the WQARF year end report. Mr. McNeely discussed challenges, including budget and staffing, FY03 accomplishments, and plans for FY04. Mr. McNeely emphasized staff resource concerns; for example, ADEQ's future community outreach efforts will be significantly minimized until hiring of new staff to replace staff who have left ADEQ is authorized.

Mr. Viereggs asked if there had been any QBS applications for the Estes Landfill site. Mr. McNeely responded that he wasn't aware whether there were any QBS applications related to this site. Mr. Viereggs stated that ADEQ needs to be cautious about speculations regarding QBS and asked how many parties from the West Van Buren Group have negotiated settlements with ADEQ. Mr. McNeely responded that there have been two: Maricopa County and Reynolds Metals. Chairman Lavis asked about cost contributions from working parties. Mr. McNeely responded that working parties have contributed approximately \$25 million, not including Pinal Creek. Ms. Gaylord stated that this will be discussed at the next meeting PRP review committee meeting. Donn Stoltzfus asked about AZRAC process changes. Mr. McNeely stated the new AZRAC is currently available and is more streamlined than the previous contract.

Amanda Stone presented the preliminary investigation and voluntary remediation program portions of the WQARF report. Ms. Stone discussed the level of effort on preliminary investigations and the concept of spending more money up-front to aid in decisions regarding listing sites on Registry. Ms. Stone informed that Board that community involvement guidance will be developed for the voluntary remediation program.

Mr. Viereggs asked how ADEQ consults with the Hazardous Waste Management act to determine which law is better to achieve cleanup. Ms. Stone responded that whichever program has jurisdiction oversees the cleanups. There are about 40 cases in RCRA now where cleanup is needed. Mr. Stoltzfus asked how to obtain information on particular sites on the Arizona Superfund Programs List (ASPL) and whether this information was on the ADEQ web site. Ms. Stone responded that the site file could be reviewed by calling Jeff Littell, Site Assessment Unit Manager. The Board requested that ADEQ take the ASPL off the web site, so it is no longer available on the web. Chairman Lavis asked how many sites are being considered for inclusion on the Registry. Mr. McNeely responded that several are currently being considered. Chairman Lavis stated that he is concerned over deferrals because ADEQ doesn't have much information on the deferred sites; there could be bigger contamination problems associated with those sites than

ADEQ is aware of when the sites are deferred. Ms. Stone responded that if there is a potential exposure path, a site is not deferred.

- B. AGO** - Ms. Huddleston provided a handout of the AGO year end report to the Board. There are currently ten WQARF-funded FTEs at the AGO, including 4.5 attorneys; two legal assistants, and three secretaries. The AGs have been working on five Estes Landfill settlements which are currently in process. These settlements are expected to result in \$1,673,000 in cost recovery. Mr. Shipley asked why the AGO is proposing 11 FTEs for FY04 rather than ten as in FY03. Ms. Huddleston responded that this is due to the combining of the AG and investigator resources under one agreement with ADEQ and that the FTE number is actually not increasing. Mr. Shipley asked about how the indirect costs reflected in the handout decrease from FY03 in spite of the higher FY04 FTE number. Ms. Huddleston responded that the indirect costs have changed according to ADOA's formula; is also unclear to the AGO why this number has decreased.

Chairman Lavis asked how many attorneys the AGO has lost. Ms. Huddleston responded that the AGO lost one attorney last year; two the year before; and one the year before that. Chairman Lavis asked to what degree these losses are affecting the AGO's ability to work on PRP searches. Ms. Huddleston responded that those losses have impacted the AGO tremendously, but ADEQ cuts have slowed remedial investigations, which has in turn slowed the PRP searches. Mr. Vieregg asked about the status of QBS settlements at Estes Landfill, and Ms. Huddleston responded that there are several QBS settlements in the pipeline.

Chairman Lavis announced a break at 10:30 a.m. The meeting resumed at 10:40 a.m.

- C. ADWR** - Ms. Teri Davis provided the year end report for ADWR. Ms. Masbruch asked Ms. Davis if ADWR received an NOI to drill a potable well in a WQARF site, whether ADWR would or would not approve the well. Ms. Davis responded that this hasn't happened yet, but if it did occur, ADWR would impose additional requirements to the well construction or ADWR could deny the application entirely. Ms. Gaylord asked about the policy issues regarding how the WQARF program would address the costs of abandonment or the costs of new wells. The water rights holder needs access to water; how can the water rights holder work with the PRP or ADEQ to pay for that cost? Ms. Davis responded that limiting the buffer zone size will reduce this issue. Funding in the amount of \$1/2 million was intended to address this issue; this funding hasn't been used yet. Ms. Gaylord asked if ADWR will address the issue. Ms. Davis responded that ADWR will address it. Chairman Lavis asked what has happened to the \$1/2 million that has not been spent. Mr. Shipley asked why the ADWR FY 03 budget is not available and what happened to approximately \$1.2 million in carryover funding. It appears that there is now just about \$400K for FY 05. Mr. Shipley asked Ms. Davis to account for what has been purchased for \$800K/year as well as what has happened

to the \$1.2 million carryover. Ms. Davis responded that this information will be available in September. Chairman Lavis mentioned that the Board is glad to see the indirect costs coming down. Mr. Stoltzfus asked whether there is a difference in review of WQARF and PI site NOIs. Ms. Davis responded that ADWR doesn't currently review applications for PI or VRP sites. Mr. Stoltzfus stated that he agrees with Ms. Gaylord that the water rights holder issue needs to be addressed by ADWR.

- D. ADHS** - Mr. Humble provided a handout of ADHS's year end report. This is the third year of three years where ADHS has received \$216K/year from ADEQ. This year ADHS received a transfer of \$100K from ADEQ. Chairman Lavis commented on the fact that ADHS is asking for less money and giving the unspent money back to ADEQ at the end of the year. Ms. Barr congratulated ADHS on working out issues and appreciates Mr. Humble's efforts. Mr. Stoltzfus asked about whether the end use HBGLs had been updated. Ms. Gaylord responded that there was an update about a year ago. This has been delayed because of other priorities, so the updated numbers are not available yet.
- V. Chairman's Review** - Chairman Lavis discussed the funding needed to complete work this year and stated that additional funding will be needed next year as more of the sites move into the cleanup phase of work. Chairman Lavis commended the Board on their work on the QBS issue and thanked Ms. Gaylord for her work on funding priorities and Ms. Gaylord and Mr. Suriano for their work on the PRP search report. Chairman Lavis reminded the Board that the Five-Year Report requirement had been met and noted the Board's work on HB2264, thanking Ms. Barr for her efforts.
- Chairman Lavis informed the Board that the focus for FY04 will be funding and completing the debate on QBS. The administrative costs report is due on August 16, and the additional cost recovery/cost reduction reforms report is due on November 14. Chairman Lavis thanked everyone for their work and efforts this year, and mentioned that he is impressed by the staff and the members of the Board. Chairman Lavis informed the Board that they should hear about membership status soon. Chairman Lavis thanked each of the agencies and presenters for their reports.
- VI. Other Business** - Ms. Barr noted that there is no Legislative Committee meeting scheduled for August 1, but that a meeting will be scheduled in the near future. Ms. Barr thanked all of the others who worked on the Legislative Committee this year for all of their hard work. On behalf of the City of Tucson, Ms. Masbruch thanked Chairman Lavis for his leadership on the Board.
- VII. Public Comment** - No public comments were received.
- VIII. Adjournment** - Ms. Barr made a motion to adjourn; Mr. Shipley seconded the motion. The meeting was adjourned at 11:25 a.m.